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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,342	11/16/2003	Brian Bandhauer	3157	2407
27727	7590	06/05/2006	EXAMINER	
PEDERSEN & COMPANY, PLLC P.O. BOX 2666 BOISE, ID 83701			LOBO, IAN J	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/715,342	Applicant(s) BANDHAUER, BRIAN	
	Examiner Ian J. Lobo	Art Unit 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The recent amendment to claims 1 and 14 is not supported by the original specification. Specifically, the original specification does not show a wideband transmitter, wideband receiver with a narrow interference bandwidth, a "self-contained" radar, and adjustment of the transmitter and receiver timing so that both the transmitter and receiver clocks are synchronized. Pages 9 and 10 of the instant specification do not, as applicant argues, support such amendments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aiello ('211) when taken in view of Litchford ('324) or Larrick, Jr. et al ('741).

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

First, under Deere, the patent to Aiello discloses frequency hopping for baseband transmitters. Note that on col. 2, lines 16+. Aiello discloses that the pulse repetition rates of the system are varied or changed during divisible time slots so as to avoid interference. Avoidance of such interference improves co-locatability of multiple radars located in a region.

Litchford teaches a radar system wherein (see col. 5, lines 42-51, and Fig. 5) the pulse repetition frequency may be adjusted by using a frequency variable oscillator. Larrick, Jr. et al also teaches a radar system which uses a frequency variable oscillator (104, 106 in Fig. 1).

Second, under Deere, the difference between claims 1 and 14 of the instant application and the system disclosed in Aiello is the instant claims specify that (a) the frequency adjustment is achieved by a "frequency variable oscillator", and, (b) the claims are directed to a radar system. Aiello merely discloses that the frequency

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adjustment is desirable and achieved but does not disclose specific structure for such adjustment. The difference between claims 1 and 14 and Larrick, Jr. et al and Litchford is the claims specify that the pulse repetition rates are varied or changed during divisible time slots.

Third, under Deere, the level of skill in the art may be ascertained by determining the following factors; (1) the types of problems encountered in the art, (2) the prior art solutions to these problems, (3) the rapidity with which innovations are made, (4) the sophistication of the technology, and (5) the educational background of those actively working in the field. From the above factors it may be determined that the person of ordinary skill in the art would have a masters or above degree in electrical or mechanical engineering.

Thus, in light of the teachings of Larrick, Jr. et al or Litchford, it would be obvious to one of ordinary skill in the art to have utilized a frequency variable oscillator in the system of Aiello to adjust the radars internal timing frequency during the display update periods, since Aiello does not disclose specific structure.

Dependent claims 2-13 and 15-26 are further provided by the combination of the above noted patents taken as a whole.

Response to Arguments

6. Applicant's arguments with respect to claims 1 and 14 have been considered but are moot in view of the new ground(s) of rejection, specifically, the 35 USC 112, first paragraph rejection.

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Applicant's arguments with respect to Aiello not suggestive of anything relating to a radar have been fully considered but they are not persuasive. It is argued that the patents to Litchford and Larrick, Jr. et al are directed to radar systems and the combination of a frequency variable oscillator, as suggested by Aiello, with the radar systems would provide for that instantly claimed.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (571) 272-6974.

The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Ian J. Lobo
Primary Examiner
Art Unit 3662

ijl